IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE FIRST DAY OF NOVEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE B.PRAKASH RAO

WRIT PETITION Nos, : 11761 of 1993, 11808 of 1993 and 12539 of 1993

1)Writ Petition No.11761 of 1993:

Between:

1 Bandlamudi Lakshmamma (Died)
2 Bandlamudi Sambasiva Rao, S/o.Subbaiah, R/o.Guntur.
3 Bandlamudi Suryanarayana S/o.Subbaiah, R/o.Guntur.
4 Vadlamudi Narasimha Rao, (died) S/o. Appaiah, R/o.Guntur.
5 Vadlamudi Shankar S/o.Late Vadlamudi Narasimha Rao, R/o.Guntur.
6 Vadlamudi Rajasekhar, S/o.Late Vadlamudi Narasimha Rao, R/o.Guntur.
7 Bandlamudi Sambasiva Rao, S/o. Late Subbaiah, R/o.Guntur.
8 Bandlamudi Suryanarayna, S/o. Late B. Subbaiah, R/o.Guntur.

[Petitioner No.5&6 are brought on record as LRS. of deceased Petitioner No.4 as per Court Order in WPMP No.24179 of 2003, dt.04.03.2004 and 7&8 are brought on record as LRS of deceased Petr.No.1 as per Court Order in WPMP.NO. 24180 of 2003, dated 04.03.2004]

..... PETITIONERS

AND

1 Special Officer and Competent Authority, Urban Land Ceilings, Guntur.
2 The Commissioner of Land Reforms and Urban Land Ceilings, Nampally Road, Hyderabad.
3 Government of A.P. rep., by its Secretary, Revenue [UC.I] Department, Secretariat Buildings, Hyderabad.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a Writ of Mandamus declaring the action of the 2nd respondent in his Common order dt: 31-5-1993 in GNT 42, 41 43 & 44/93 confirming the Proceedings of the 1st Respondent in No.1612, 1614, 1537 & 1564/76 beyond the Stage of Section 8(3) of Urban Land Ceiling Act as null and void and further to direct them to redetermine the same in the light of law and of the exemption that may be granted by the 3rd Respondent or in the alternative to issue such other Writ or Order directing the 3rd Respondent to dispose of the application for exemption which is pending and of the

revisions after hearing the parties.

Counsel for the Petitioners: MR.P.M.GOPAL RAO

Counsel for the Respondents: GP FOR REVENUE

2)WRIT PETITION NO : 11808 of 1993

Between:

Bandlamudi Subbaiah & Sons (Private) Ltd., Amaravathi Road, Guntur
rep. by Kancherla Laxminarayana, S/o Subbaiah

..... PETITIONER

AND

1 Special Officer and Competent Authority, Urban Land Ceilings, Guntur
2 The Commissioner of Land Reforms and Urban Land Ceilings, A.P., Hyderabad
3 Govt. of A.P. rep. by its Secretary, Revenue (UC.I) Dept., Secretariat Buildings, A.P. Hyderabad

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a Writ of Mandamus declaring the action of the 2nd respondent in his Order GNT/6690, dt: 31-5-1993 and that of 3rd Respondent in their Memo No.71668/UC.I(R)/90-6 of the 1st respondent in his proceedings in U.L.C.1543/76 beyond the stage of Sec.8(3) of Urban Land Ceilings Act of 1976 as void and illegal and to direct the 3rd respondent to consider and pass orders on the application for exemption made by the Petitioner Under Sec. 20 of Urban Land Ceilings Act 1976 with respect of S.No.165/3 of Koritipadu (V), Guntur Dist. before such date as this Hon'ble Court may specify or to issue such other Writ or Order.

Counsel for the Petitioner: MR.P.M.GOPALA RAO

Counsel for the Respondent : GP FOR REVENUE

3)WRIT PETITION NO : 12539 of 1993

Between:

1 Abidunnisa Begum, W/o late Akber Nawaz Jung, R/o Hyderabad
2 Mir Arjuman Ali Khan, S/o late Akber Nawaz Jung, R/o Hyderabad
3 Mir Asghar Ali Khan, S/o late Akber Nawaz Jung

rep. by GPA Mir Arjumand Ali Khan
4 Noorunnisa Begum @ Mahajabeen Sadatullah, W/o Wg.Comd (Retd.) Md. Sadatullah, R/o Hyderabad
5 Hoor Zahir Chinoy, w/o.Zahir Chinoy, S/o late Akber Nawaz Jung
R/o Hyderabad

..... PETITIONERS

AND

1 The Special Officer and Competent Authority, Urban Land Ceilings, Hyderabad
2 The Commissioner of Appellate Authority Under the ULC Act, Hyderabad

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a Writ, Order or direction particularly one in the nature of Writ of Mandamus, declaring that petitioners do not have any excess extent and for consequently quashing the orders of the Special Officer and Competent Authority, under Sec. 8(4) dt: 21-6-1982 and final statement U/s 9 of the ULC Act,

Counsel for the Petitioner: MR.B.V.SUBBAIAH

Counsel for the Respondents: GP FOR REVENUE

THE HON'BLE SRI JUSTICE B.PRAKASH RAO

WRIT PETITION Nos.11761 of 1993, 11808 of 1993

and 12539 of 1993

COMMON ORDER:

Heard the learned counsel for both the sides. Since the question involved in the above three Writ Petitions is common, all these Writ Petitions are taken up together for disposal.

The petitioners herein, who are the declarants and also representing the original declarants, filed the respective Writ petitions, *inter alia*, seeking a Writ of Mandamus challenging the orders dated 31.05.1993 passed by the second respondent, the appellate authority, rejecting the appeals filed under Section 33 of the Urban Land (Ceiling & Regulation) Act, 1976 (hereinafter referred to as 'the Act'), as barred by limitation and also refusing to condone the delay in filing such appeals.

Since the entire arguments were against the refusal to exercise the discretion properly in condonation of delay, it is not necessary to go into the merits of the case or the pleas as raised touching upon such merits are not necessary.

It is suffice to say that in all these matters, the primary authority under the provisions of the Act, namely the first respondent, has passed orders in 1980's determining the surplus held by the respective declarants and rejecting objections raised upon such inclusion. However, no appeals as contemplated under Section 33 of the Act, were filed within time nor any such challenge is made by any of the original declarants. However, it is the case of the petitioners that their applications under Section 20 of the Act seeking exemption in terms of certain instructions issued, were pending with the government, viz. the third respondent in Writ Petition Nos.11761 of 1993 and 11808 of 1993. Further, having regard to the said fact and also on other aspects, the declarants-petitioners sought to file revision under Section 34 of the Act before the third respondent, though at a very late stage. It is nothing on record to show the exact date of filing of the said revision before the third respondent. However, apparently the same are filed at a far belated stage and the said revisions were disposed of by the third respondent directing the petitioners by issuing memos, to approach the appellate authority under Section 33 of the Act. Thereupon, the petitioners filed appeals before the

appellate authority and by that time itself, almost a decade was over. The appellate authority refused to condone the delay since there is absolutely no explanation forthcoming nor any sufficient reason is shown therefor.

The contention on the part of the petitioners is that the appellate authority did not properly consider these and other circumstances and erroneously declined to exercise discretion. Further, it is also their case that having regard to the principles laid down by the Supreme Court in *Meera Gupta V. State of West Bengal* case, subsequent to determination of the holdings of the declarants, they are entitled to the same benefits, since rights of the parties had to be decided even on the date of the enforcement of the Act.

Contesting the claim of the petitioners, the learned Government Pleader appearing on behalf of the respondents sought to sustain the impugned orders on the ground that except stating about filing of revision and application for exemption, no valid reasons have been shown for such delay nor day to day explanation has been given. Even otherwise, there has been serious laches on the part of the petitioners at every stage and therefore, no indulgence can be shown in their favour.

Considering the submissions made and also on perusal of material, the only question which crops for consideration is as to whether the petitioners are entitled to seek condonation of delay in preferring the appeals and there is any sufficient valid reasons for the same ?

There is no dispute to the fact that in pursuance of the declarations filed by the declarants, the first respondent has passed orders under Section 9 of the Act determining the holdings and declaring surplus. The declarants filed the applications under Section 20 of the Act

seeking exemption, which have been kept pending. Subsequently, the petitioners filed the revisions under Section 34 of the Act, which were rejected by the third respondent-government, directing the petitioners to approach the appellate authority by filing appeal. Hence, the petitioners filed the appeals with such long delay.

There is also no dispute to the fact, as pointed out in the statement shown in the appellate authority's order, of dates of the orders of the first respondent and also the date of filing of the appeals and the revisions and also their disposal. On a reading of the dates as shown, the primary orders under Section 9 of the Act were passed in the early 1980's whereas the present appeals are filed in March, 1993. There is, thus, delay of almost 10 years in preferring the said appeals. The main ground on which the petitioners seek condonation of delay is that only in pursuance of the directions given by the third respondent, they preferred the appeals and therefore, the same have to be entertained, and further, the petitioners are entitled for the benefits and principles as laid down in *Meera Gupta V. State of West Bengal* case (1 supra). It is to be seen that as against the said orders passed by the first respondent under Section 9 of the Act, admittedly no steps have been taken for preferring appeal within the time as prescribed. There is no explanation forthcoming as to why such steps were not taken. Further, it is only long after, which touches upon almost a period of a decade, the petitioners approached the third respondent by way of revision under Section 34 of the Act. The fact that appeal is provided for and the third respondent-government rejected the said revisions directing the petitioners to avail appeal remedy, would not in any way confer any right nor would bring the appeals preferred in terms of the said direction, within time. When such appeals are being filed before the regular authorities, necessarily the petitioners have to come out with valid reasons for such delay. The delay in all these cases is far beyond a period of a decade. Conspicuously, there is no explanation or any reason shown for the period from the date of orders of the first respondent even till

the date of filing of the revision before the third respondent-government. No doubt, immediately after rejection of the revisions, the petitioners filed these appeals before the appellate authority. However, by that time, much water has been flown. It is not the case of petitioners that they have availed any wrong remedy within the time prescribed so that they can avail benefit as contemplated under Section 14 of the Limitation Act. Apparently, the petitioners want to avail benefits of the principles laid down in *Meera Gupta V. State of West Bengal* case (1 supra) and therefore, they sought to choose to take these remedies. There is also no explanation as to why the petitioners straight away approached the third respondent-government without filing appeals. As rightly pointed out, the petitioners hopelessly failed to make out any case warranting any indulgence to be shown in their favour. There are absolutely laches on the part of the petitioners, more so when there is no valid explanation forthcoming nor is supported by any sufficient reason.

In W.P.No.12539 of 1993, though an averment has been there in the affidavit filed in support of the Writ Petition, to the effect that the petitioners were not aware of the proceedings in view of death of the original declarant and therefore, there is such delay, which needs to be condoned. Even in this regard, it has to be seen that there is no explanation forthcoming as to how and why the petitioners could keep silent for such a long period, which itself glaringly runs to a decade.

Having regard to the aforesaid facts and circumstances, the appellate authority has rightly rejected the appeals and refused to condone the delay. I do not fine any error, much less any ground, to warrant interference in exercise of powers under Section 226 of the Constitution of India. Hence, all these Writ Petitions lack merits and the same are accordingly, dismissed. No costs.

01.11.2004

DRK

Copy to:

1 Special Officer and Competent Authority, Urban Land Ceilings, Guntur.
2 The Commissioner of Land Reforms and Urban Land Ceilings, Nampally Road, Hyderabad.
3 Government of A.P. rep., by its Secretary, Revenue [UC.I] Department, Secretariat Buildings, Hyderabad.

4 The Commissioner of Appellate Authority Under the ULC Act, Hyderabad

5 Two CCs to the G.P. for Revenue, High Court of A.P., High Court buildings, Hyderabad (o.u.t.)

6 Two CD copies.